

REMARKS

Claims 20, 21 and 32-37 are pending in this application. Claims 20, 21, 32, 33 and 35 are amended herein to more distinctly claim the present invention. Applicant submits that no new matter has been added by this response.

Claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2002/0004924 to Kim et al. (hereinafter as Kim) in view of U.S. Publication No. 2006/0209765 to Li et al. (hereinafter as Li), and in further view of U.S. Pat. No. 6,901,551 to Corrigan III (hereinafter as Corrigan). Claims 4, 7, 12, 15-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Li and Corrigan, and in further view of U.S. Pat. No. 6,774,864 to Evans et al. (hereinafter as Evans).

Applicant respectfully traverses these rejections, and requests reconsideration and allowance of these claims in view of the following arguments.

Rejections under 35 U.S.C. § 103

Independent claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Li, and in further view of Corrigan. Claims 4, 7, 12, 15-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Li and Corrigan, and in further view of Evans.

With this paper, claims 1, 4, 7, 12, 15-19 and 22-31 have been canceled without prejudice. Therefore, it is respectfully submitted that the rejection with respect to these claims is now moot.

Furthermore, it is respectfully noted that the Federal Circuit has provided that an Examiner must establish a case of prima facie obviousness. Otherwise the rejection is incorrect and must be overturned. As the court stated in In re Rijkaert, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993):

"In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. 'A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.' If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned." (Citations omitted.)

As amended, the inventions defined by independent claims 20 and 32 recite that each of at least two data blocks is transmitted via each of a plurality of antennas at a transmitting side, and a receiving side transmits a positive acknowledgement (ACK) or a negative acknowledgement (NACK) for each of the at least two data blocks. Accordingly, the transmitting side can receive ACK or NACK for each transmitting antenna which has transmitted each of the at least two data blocks.

The references cited by the Examiner fail to teach the subject matter of claims 20 and 32 as described above. The Examiner asserts that Kim discloses a feedback signal reception unit receiving status information of at least one channel according to the CRC check results in a plurality of antennas. However, the cited parts (section 0008, 0009, 0011, 0020, Fig. 1A) of Kim merely disclose a well-known retransmission mechanism according to a HARQ Type I scheme. Namely, Kim discloses that a

transmitter transmits a data block having $(L+CRC) \times R^{-1}$ bits to a receiver and receives ACK or NAK in response to the data block based on the CRC check from the receiver. When receiving NAK, the transmitter retransmits the data block to the receiver. However, Kim fails to teach or suggest that each of at least two data blocks is transmitted via each of a plurality of antennas at a transmitting side and a receiving side transmits ACK or NACK for each of the at least two data blocks as disclosed in claims 20 and 32.

Furthermore, the references cited by the Examiner also fail to teach that "the CRC is independently attached to each of the at least two data blocks", as recited in claims 20 and 32. The applicants respectfully disagree with the Examiner's assertion that Corrigan at col. 4, lines 42-64 discloses the CRC is independently attached to each of the one or more data blocks. Corrigan col. 4, lines 47-49 discloses that each data block in the data block area has a corresponding CRC value block in CRC value area 320 and an error information data block in CRC error area 330. Col. 4, lines 50-52, further indicates that each data sub-block may also have a corresponding CRV value sub-block in the CRC value area. Thus, Corrigan's first data blocks may have both CRC value blocks and CRC sub-blocks at the point of first transmission.

Accordingly, it is respectfully submitted that claims 20 and 32, and the claims respectively dependent thereon, are allowable over the combination of cited references.

CONCLUSION


In view of the foregoing, it is respectfully submitted that the application and the claims are in condition for reconsideration on the merits, thus reexamination of the application is requested. The Examiner is invited to call the undersigned attorney at (213) 623-2221 should the Examiner believe a telephone interview would advance the prosecution of the application.

Respectfully submitted,

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